

REMARKS

Claims 1-25 are currently pending in this application. Claims 1 and 7 have been amended herein for the reasons outlined below. No new matter has been added.

Applicant thanks the examiner for the thorough and thoughtful consideration of the present application and the art of record.

1. Abstract

The Abstract as originally filed has been objected to and a corrected Abstract has been requested. Under 37 CFR 1.111(b) a replacement Abstract is provided as a separate sheet at the end of this response.

2. Drawings

The Office has objected to the Drawing as filed as they include a reference to a character not mentioned in the description, specifically #139 in Figure 8. Applicant respectfully traverses this objection, as Page 12, line 28 of the specification mentions that object (139) is a knob.

3. Claim objections

Claim 1 has been amended to provide a clear transition. Claim 7 has been amended to better claim specific embodiments of Applicant's invention. Support for this amendment is found throughout the specification and drawings. No new matter has been added.

4. Claims 1-6, 9 and 11-15 are Not Anticipated over Ewerlog, WO 01/28617.

In the most recent action, Claims 1-6, 9 and 11-15 were rejected under Section 102(b) as anticipated by Ewerlog (WO 02/28617). Applicant respectfully traverses each and every aspect of this rejection.

Claim 1, as amended, recites:

“A hand-held, capsule-containing device having;
an endless track which is adapted to receive a series of capsules therein and defines a conveying path along which the capsules are conveyable, wherein *the path includes at least one fold section thereby to provide the path with a space-saving configuration.*” (emphasis added)

Ewerlog describes a dispenser “in which a substantial portion of the bead chain 9 is stored in a rolled-up position between two guides 10,11” (see page 8, lines 1-3) and is shown in Figure 1 as a coil. According to the reference, this configuration allows for a greater plurality of unit doses within each device in contrast to Ewerlog’s device that simply follows the periphery of the device thus limiting Ewerlog to fewer unit doses of equivalent geometry.

As Ewerlog clearly does not disclose the use of at least one fold section thereby to provide a path with a space-saving configuration, Ewerlog fails to disclose all limitations of Applicant’s device and cannot be said to prove prior invention of Applicant’s device and, thus, cannot anticipate under 35 U.S.C. 102(b).

As Claims 2-6, 9 and 11-15 are dependent on Claim 1 Applicant’s assert that these Claims are also patentable over Ewerlog for the reasons mentioned above.

Applicant’s respectfully request a withdrawal of this rejection, and reconsideration of the claims.

5. Claims 1-3, 5-13, 15-16, 18-22 and 24-25 are Not Anticipated by Anderson, WO 03/061743 A1.

Claims 1-3, 5-13, 15-16, 18-22 and 24-25 stand rejected under 35 USC 102(e) as anticipated by Anderson (WO 03/061743 A1). Applicant respectfully traverses each and every aspect of this rejection.

Claim 1 claims an endless track which is adapted to receive a series of capsules. In contrast to the subject matter of Claim 1, Anderson is related to a dispenser using a medicament carrier comprising a blister pack in laminate form. (see page 3, line 27) In operation, Anderson's blister pack is peeled apart with the lid sheet being wound up (see page 11, line 4). This action is clearly envisioned in Figure 1. As the path for the medicament carrier starts at one position and ends at a different position, it is clearly not endless. As Anderson clearly does not disclose the use and endless track, Anderson fails to disclose all limitations of Applicant's device and cannot be said to prove prior invention of Applicant's device and, thus, cannot anticipate under 35 U.S.C. 102(b). As Claims 1-3, 5-13, 15-16, 18-22 and 24-25 are dependent on Claim 1 Applicant's assert that these Claims are patentable over Anderson. Applicant's respectfully request a withdrawal of this rejection.

6. Claims 1, 11, 12, 17 and 20-23 are Not Anticipated by Jones et al., US 3,558,003.

Claims 1, 11, 12, 17 and 20-23 stand rejected under Section 102(b) as anticipated by Jones et al. (US 3,558,003). Applicant respectfully traverses each and every aspect of this rejection.

Claim 1 recites an 'endless track which is adapted to receive a series of capsules.' Jones, however, describes a tablet dispenser having a continuous tablet channel where rotation of the cover of the dispenser urges the tablets into the dispensing aperture. Jones relies on a tablet follower (9) to urge the

tablets towards the dispensing aperture (7) with the tablet follower (9) moving through the slot (8) from the inner extreme to the outer extreme of the slot (8). (see Figure 3, arrow inside of 8) There is no endless track in Jones as the channel (4) has a distinct start and end. Jones clearly does not disclose the use and endless track, thus Jones fails to disclose all limitations of Claim 1, and thus cannot anticipate under 35 U.S.C. 102(b).

As Claims 2-3, 5-13, 15-16, 18-22 and 24-25 are dependent on Claim 1 and are also not anticipated by Jones for the same reason. Applicant's respectfully request a withdrawal of this rejection, and reconsideration of the claims.

CONCLUSION

In light of the comments and amendments made herein, reconsideration is hereby requested. It is respectfully asserted that the specification and claims are in condition for allowance.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sect 1.16 or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392.

Respectfully submitted,

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